

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

ADAM KAPLAN and DANIEL KAPLAN,

Defendants.

Case No. 2:23-CR-00293 (JMA) (JMW)

**MICHAEL TREMONTE'S  
DECLARATION IN SUPPORT OF  
DANIEL KAPLAN'S PRETRIAL  
MOTIONS**

1. I am an attorney admitted to practice before the United States District Court for the Eastern District of New York. I am a partner of the law firm Sher Tremonte LLP, and I represent Daniel Kaplan in the above-captioned matter.

2. I respectfully submit this declaration in support of Daniel Kaplan's pretrial motions.

3. Prior to submitting Daniel Kaplan's pretrial motions regarding discovery matters, including the issuance of a bill of particulars, I conferred with the government repeatedly in good faith in an attempt to resolve the issues raised by the enclosed motions without this Court's intervention, in accordance with Local Criminal Rule 16.1. Those efforts are detailed below.

4. On July 31, 2023, I joined the discovery letter, sent by Adam Kaplan's counsel, requesting among other things: (1) a bill of particulars as to the then-operative indictment; (2) notice of evidence the government intended to introduced under Federal Rule of Evidence 404(b); (3) notice of and information regarding potential government witnesses; (4) *Brady* and *Giglio* material; and (5) the production of files in the custody and control of the United States Securities and Exchange Commission relating to the charged conduct. Annexed hereto as **Exhibit A** is a true and correct copy of the July 31, 2023 letter.

5. In a December 22, 2023 email, having received no response from the government, Adam Kaplan's counsel reiterated the July 31, 2023 letter's requests, copying me. Annexed hereto as **Exhibit B** is a true and correct copy of the December 22, 2023 email sent by Adam Kaplan's counsel. Pursuant to the protective order entered by this Court, the reference to the name of the Financial Services Firm is redacted. ECF No. 160.

6. On December 27, 2023, also by email, the government identified the financial institutions and victims referenced in the initial indictment and provided a non-exhaustive list of 160 alleged "victims." Annexed hereto as **Exhibit C** is a true and correct copy of the government's December 27, 2023 email. Pursuant to the protective order entered by this Court, the names of individuals and institutions the government identified are redacted. ECF No. 160.

7. The government provided no further response to the joint July 31, 2023 letter.

8. In a March 4, 2025 email, Daniel Kaplan's counsel, requested the government provide notice, in relevant part, of its intent to call witnesses in addition to Victims 1 through 12 from the Superseding Indictment. Annexed hereto as **Exhibit D** is a true and correct copy of Daniel Kaplan's March 4, 2025 email.

9. The government did not respond.

10. Two days later, Daniel Kaplan's counsel further requested guidance as to what transactions extended Count Seventeen beyond November 2022, when any other charged conduct as to Daniel Kaplan ends. Annexed hereto as **Exhibit E** is a true and correct copy of counsel's March 6, 2025 email.

11. The government again did not respond.

12. On March 20, 2025, Daniel Kaplan's counsel sent a second discovery letter, reiterating the requests made in the July 31, 2023 letter and March emails, and making additional

requests as to missing Rule 16 discovery and a bill of particulars as to the Superseding Indictment. Annexed hereto as **Exhibit F** is a true and correct copy of that March 20, 2025 letter.

13. On March 26, 2025, counsel further asked the government by email to confirm whether it had received the SEC's full investigative file and whether it had turned over all file contents to the defense. Annexed hereto as **Exhibit G** is a true and correct copy of counsel's March 26, 2025 email.

14. On April 2, 2025, the government emailed the identity of Victims 1 through 12 in the Superseding Indictment, but otherwise refused to respond to the defense's requests. Annexed hereto as **Exhibit H** is a true and correct copy of the government's April 2, 2025 email. Pursuant to the protective order entered by this Court, the names of individuals the government identified are redacted. ECF No. 160.

15. By April 18, 2025 letter, the government declined defense counsel's requests for further information. Annexed hereto as **Exhibit I** is a true and correct copy of the government's April 18, 2025 letter.

16. On April 25, 2025, Adam and Daniel Kaplan jointly requested that the government respond to the informational requests it had ignored in its April 2 email and April 18 letter. Annexed hereto as **Exhibit J** is a true and correct copy of Adam and Daniel Kaplan's joint April 25, 2025 letter. Pursuant to the protective order entered by this Court, all but the last four digits of the referenced telephone numbers and Financial Services Firm are redacted. ECF No. 160.

17. On May 9, 2025, the government responded to Adam and Daniel Kaplan's additional informational requests, but refused again to answer whether it had received the full SEC file. Annexed hereto as **Exhibit K** is a true and correct copy of the government's May 9, 2025

letter. Pursuant to the protective order entered by this Court, all but the last four digits of the referenced telephone numbers and Financial Services Firm are redacted. ECF No. 160.

18. On February 25, 2025, the State Court overseeing the civil malpractice held a hearing on Daniel and Adam Kaplan's motion to compel. Annexed hereto as **Exhibit L** is a true and correct copy of the transcript of that proceeding.

19. Annexed hereto as **Exhibit M** are true and correct copies of the appellate briefs in *Pomerantz v. Schandler*, 704 F.2d 681 (2d Cir. 1983), as provided to counsel by National Archives staff.

20. I declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: May 16, 2025

/s/ Michael Tremonte  
Michael Tremonte

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